

Abstract Proceedings of the Mysore Legislative Council.

The Council met in the Public Offices Buildings, Bangalore, on Tuesday the 5th December 1916, at 12 noon.

PRESENT.

SIR M. VISVESVARAYA, B.A., L.C.E., M.INST.C.E., K.C.I.E., Dewan (Presiding).

Ex-officio Members.

1. RAJASEVADHURINA M. KANTARAJ URS, Esq., B.A., C.S.I.,

First Member of Council.

2. A. R. BANERJI, Esq., C.I.E., M.A., I.C.S.,

Second Member of Council.

Additional Members:

Official.

1. RAJAMANTRAPRAVINA DEWAN BAHADUR J. S. CHAKRAVARTI, Esq.,
B.A., F.R.A.S.
2. RAJASABHARHUSHANA DEWAN BAHADUR C. SRIKANTESVARA
AIYAR, Esq., B.A., B.L.
3. RAO BAHADUR M. SHAMA RAO, Esq., M.A.
4. P. RAGHAVENDRA RAO, Esq., B.A., B.L.
5. D. M. NARASINGA RAO, Esq., B.A., B.L.
6. C. S. BALASUNDARAM IYER, Esq., B.A.
7. C. S. DORASWAMI IYER, Esq., B.A., B.L.

Non-official.

1. RAJASABHARHUSHANA DEWAN BAHADUR K. P. PUTTANNA
CHETTY, Esq.
2. H. NARASINGA RAO, Esq.
3. B. V. RAMASWAMI CHETTY, Esq., B.A.
4. NAWAB GULAM AHMAD KALAMI, Esq.
5. M. BASAVA IYA, Esq., B.A., B.L.
6. B. NARASINGA RAO, Esq.
7. M. KARNICK KRISHNAMURTI RAO, Esq.
8. C. NARASIMHAIA, Esq., B.A., B.L.
9. B. K. GARUDACHAR, Esq.
10. M. VENKATAKRISHNAIA, Esq.
11. B. VENKATASHANANNA, Esq., B.A., B.L.
12. S. SEETHARAMAIA, Esq.
13. M. CHENGIAH CHETTY, Esq., B.A.

ABSENT.

Official.

1. K. S. DORASWAMY IYER, Esq.

G. SREENIVASA IYER, Esq., B.A., M.L. (Secretary).

Secretary's Report to Council.

I. Secretary reported to the Council—

(i) that the Mysore University Bill received the assent of His Highness the Maharaja on the 22nd day of July 1916, and

(ii) that Messrs. D. M. Narasinga Rao, B.A., B.L., and M. Chongiah Chetty, B.A., took their seats as additional members of the Council to-day.

Questions and Answers.

1. **Mr. B. Narasinga Rao, asked.**—Will Government be pleased to state—

(a) whether they are aware of the prosecution of Mr. B. Garudachar, B.A., B.L., under section 411, Indian Penal Code for receiving Rs. 50 in current coins as his fees;

(b) whether they have perused the orders passed by the Chief Court in Criminal Revision Case No. 5 of 1916-17 quashing the proceedings before the District Magistrate of Kolar;

(c) whether they have taken any action regarding the officers responsible for instituting the prosecution; and

(d) whether, if not, they will institute a thorough enquiry into the conduct of the officers concerned and deal with them in a suitable way?

Mr. A. R. Banerji, M.A., I.C.S. C.I.E., replied.—(a) & (b) The answer is in the affirmative.

(c) & (d) Needful enquiries have been made and the case is engaging the consideration of Government.

2. **Mr. B. Narasinga Rao, asked.**—(a) Will Government be pleased to state the principles guiding the grant of local allowances to some of the Amildars and the Munsiff of Kolar Gold Fields?

(b) Considering the costly nature of the living, the climatic conditions and the reluctance of officers to stay in Seringapatam, will Government be pleased to grant a local allowance of Rs. 50 each to the Amildar and the Munsiff?

Rajamantrapravina Dewan Bahadur Mr. J. S. Chakravarti, M.A., F.R.A.S., replied.—(a) The attention of the member is invited to article 20 of the Mysore Service Regulations.

(b) The proposal will be considered by Government.

3. **Mr. M. Karnick Krishnamurti Rao, asked.**—(a) Will Government be pleased to state—

(i) the progress achieved by the Bangalore-Kunigal Steam Tramway Company Limited,

(ii) the control they exercise over the affairs of the Company;

(iii) the total amount of subscription collected up to the end of October 1916, and

(iv) the time allowed to the Company for commencing the construction?

(b) If the Company does not start work within the stipulated time, will Government be pleased to empower the District Board of Bangalore to construct railway from Bangalore to Kunigal via Magadi?

Mr. D. M. Narasinga Rao, B.A., B.L., replied.—(a) (i) Surveys have been completed and project report and estimates are under preparation. Owing to the stringency of the money market due chiefly to the war, no appreciable progress has been made in the collection of shares.

(ii) Government could exercise certain powers under the Railway Regulation provided it is made applicable to tramways under section 127.

(iii) The total amount collected up to the end of September 1916 is Rs. 25,297. The figures for October 1916 are not available.

(iv) Eighteen months from the date of the order, viz., 6th April 1914.

(b) The Company have asked for further time. The question is under consideration.

4. **Mr. M. Karnick Krishnamurti Rao, asked.**—Has the attention of Government been drawn to the unsatisfactory state of Sri Someswara temple near Magadi in which the idol was damaged and removed by a Mahomedan two years ago?

Will Government be pleased to order its immediate repair under the Ancient Monument Preservation Rules in memory of the late Palegar Kempegowda?

Rajasevadhurina Mr. M. Kantaraja Urs, B.A., C.S.I., replied.—Government are aware that a Mahomedan who was not of sane mind at the time, removed one of the idols and disfigured another. They have already sanctioned the purification of the temple and the consecration of fresh idols. The question of bringing the temple under the Ancient Monument Preservation Rules will be considered.

5. **Mr. S. Seetharamaiya, asked.**—Will Government be pleased to state—

(a) whether they are aware that a large number of students were refused admission into the Central College Hostel last year;

(b) how many boarders can be accommodated in the Hostel and how many are actually accommodated;

(c) whether the adjoining pond which breeds mosquitoes and whether Kitchetty's Choultry where theatrical performances take place and from which infection is generally carried to the Hostel premises are not source of danger to the students occupying the Hostel; and

(d) whether they will take urgent steps to remedy these defects by adding to the Hostel a reasonably sufficient number of rooms, filling the pond in question, and acquiring the Kitchetty Choultry premises and adding them on to the College Hostel yard?

Rajamantrapravina Dewan Bahadur Mr. J. S. Chakravarti, M.A., F.R.A.S., replied.—(a) The applications of 120 students for admission to the Hostel were registered. Fifty-three were newly admitted and sixty-seven were refused admission. About forty applications were not registered, there being no chance of admission in consequence of want of accommodation.

(b) Ninety-six boarders can be accommodated in the two Hostel blocks. One hundred and seven are messing in the Hostel, of whom eleven are lodged in either the college tiffin rooms or the Y. M. C. A.

(c) This pond remains dry during the greater part of the year and has not been hitherto represented to be a source of danger to the neighbourhood.

Kitchetty's Chattram has been acquired by Government, and the P. W. D. has been asked to take action to have the buildings completely evacuated.

(d) The question of providing additional Hostel accommodation is under consideration in connection with the University. The estimates of buildings required at Mysore have already been sanctioned by Government in their Order No. 1765-70—P. W. 8660-65, dated 18th August 1916 and those for Bangalore also will be sanctioned separately.

6. **Mr. S. Seetharamaiya, asked.**—(a) Are Government aware

(i) that though a portion of the capital for the Shimoga District Board Railways was collected two years ago, no shares have yet been allotted, no debentures issued and the promised biennial interest has not been paid to the subscribers; and

(ii) that this delay has caused discontent among the subscribers and discouraged people from taking shares?

(b) Will Government be pleased to call upon the authorities concerned to expedite matters?

Mr. A. R. Banerji, M.A., I.C.S., C.I.E., replied.—(a) (i) The answer is in the affirmative.

(ii) Government are not aware that any dissatisfaction has been caused.

(b) It is reported that 450 debenture bonds and 1,089 *ad interim* interest orders will be issued shortly.

Mr. H. Narasinga Rao, asked.—Will Government be pleased to lay down a definite and suitable scheme for the education of our girls, keeping in view as far as possible, the traditional sentiments and the aspirations of our people?

Rajamantrapravina Dewan Bahadur Mr. J. S. Chakravarti, M.A., F.R.A.S., replied.—The attention of the member is invited to Government Order No. 414-26—Edn. 152-13-7, dated 10th July 1914 on the improvement of female education in the collegiate and secondary grades.

Any specific suggestion which might be made in regard to this subject will receive due consideration.

8. Mr. H. Narasinga Rao, asked.—Will Government be pleased to state—

(a) what the average yield of an acre of land under cultivation in Mysore is;

(b) whether this average yield compares favourably with that in the neighbouring British territory;

(c) If the answer to (b) is in the negative, what the economic causes for the unfavourable condition are; and

(d) what steps have been taken or will be taken to remedy the defect?

Mr. A. R. Banerji, M.A., I.C.S., C.I.E., replied.—(a) A copy of Government Order R. 6163-71—Agri. 102-09-7, dated 1st May 1912 * containing the standard rates of produce per acre of the principal crops in the State as tentatively approved by Government is placed on the table.

(b) A statement† embodying such information as is available is placed on the table.

(c) & (d) The outturn depends upon soil, locality and variety of other conditions. It is difficult to institute a comparison. The yield can be greatly increased by the adoption of improved and scientific methods of cultivation. Government are doing all they can to educate people in these methods through the Department of Agriculture and the Agricultural Committee of the Economic Conference.

9. Mr. H. Narasinga Rao asked.—Will Government be pleased to state whether in the interest of the efficiency of the public service, it is not desirable to include all the Deputy Amildars, Amildars and Munsiffs in the Civil Service Cadre?

Mr. D. M. Narasinga Rao, B.A., B.L., replied.—Government do not consider that the suggestion, even if practicable, would lead to any useful results.

10. Mr. C. Narasimhaiya, B.A., B.L., asked.—Will Government be pleased to state—

(a) how many of the endowments made by the State for charitable purposes during the Dewanship of Purnayya outside the Mysore State, are under the direct supervision of Government and how many are managed by others;

(b) whether Government exercise any kind of supervision over the latter;

(c) if so, what kind of supervision is exercised over Pasupathur and Veerasettihalli inam villages endowed for the maintenance of a choultry in Saukararoyalpet or Gundungal in Punganur Zamindari; and

(d) what the income from these villages is and how it is spent?

Rajasevadhurina Mr. M. Kantaraj Urs, B.A., C.S.I., replied.—(a) & (b) There are only three charitable institutions outside Mysore in receipt of a money grant from the State and they are under the direct control of Government. In the case of one other institution which has a land inam within the State, Government have the right to inspect and scrutinise the accounts.

(c) & (d) Government have no information in the matter but will make enquiries.

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11. Mr. C. Narasimhaiya, B.A., B.L., asked.—(a) Will Government be pleased to lay on the table a statement showing—

- (i) the number of centres in which elementary education has been made compulsory;
- (ii) the number of boys of school-going age in each;
- (iii) the number of boys of school-going age that were attending schools before the introduction of compulsion and since; and
- (iv) the number of cases in which coercive measures have been successfully adopted?

(b) Will Government be pleased to state—

(i) whether sufficient facilities have been provided in all these centres for the successful working of the scheme; and

(ii) whether the figures do not justify a more vigorous policy in the matter of compulsory education?

Rajamantrapravina Dewan Bahadur Mr. J. S. Chakravarti, M.A., F.R.A.S., replied.—(a) (i) 68.

(ii) & (iii) In 1914 out of—

15,582 boys of compulsory ages,
 10,600 were going to school,
 and 5,019 have been admitted since the introduction.

In 1915 out of—

3,908 boys of compulsory ages;
 2,376 were going to school,
 and 1,722 have been admitted since the introduction.

(The excess in number is due to the children of neighbouring villages attending the schools.)

In 1916 out of about—

10,301 boys of compulsory ages,
 6,098 were going to school,
 and 870 have till now been admitted.

(iv) 324.

(b) (i) The answer is in the affirmative.

(ii) Inadequacy of suitable accommodation is the main difficulty in the way of opening more schools in the centres notified till now. Vigorous action is being taken.

12. Mr. C. Narsimhaiya, B.A., B.L., asked.—Will Government be pleased to lay on the table a statement showing—

(a) the number and value of machinery set up by the Department of Industries and Commerce;

(b) the number of cases in which their help was sought and rendered;

(c) the number of cases in which original investigation, if any, was made by the Department and the results achieved; and

(d) the reasons for the recent revision of the cadre of the Department at increased cost?

Mr. A. R. Banerji, M.A., I.C.S., C.I.E., replied.—(a) A statement* showing the required particulars is laid on the table.

(b) Advice and help have been given to several persons in the matter of inlay and brass works, sandalwood carving, sinking of wells, improved methods of weaving, the use of fly-shuttle looms, etc.

(c) A statement† giving the particulars is placed on the table.

(d) The appointment of two Assistant Directors was necessary in connection with the arrangements for the working of the Sandalwood Oil Factories. The

present staff of the Department is hardly adequate to cope with the work in progress and the developments to be carried out in the near future.

13. Mr. B. V. Ramaswamy Chetty, B.A., asked.—In view of the fact that the fifth and sixth divisions of the Bangalore City Municipality are found to be extremely malarial owing to the existence of a large number of vegetable gardens in them, will Government be pleased to consider the desirability of improving the sanitation of those divisions by acquiring all the garden lands concerned or at least those situated to the west of the Lal-Bagh road and converting them into building sites?

Mr. A. R. Banerji, M.A., I.C.S., C.I.E., replied.—It is not made out that the proposed acquisition, the cost of which would be very prohibitive, is absolutely necessary in the interests of public sanitation. This is a subject which should be first considered by the Municipal Council.

14. Mr. B. V. Ramaswamy Chetty, B.A., asked.—Will Government be pleased to consider the desirability of improving the morale of the Police Force by raising the pay of its members?

Mr. A. R. Banerji, M.A., I.C.S., C.I.E., replied.—The attention of the member is invited to Government Orders Nos. J. 1085-94—Police 256-12-5, dated the 25th September 1913, J. 882-2—Police 195-13-2, dated the 28th September 1914 and J. 4033-4—Police 100-14-4, dated the 22nd May 1915, regarding the revision of certain branches of Police Department, the grant of increased pay to the constables and the opening of a hostel. Within the past three years the increase of expenditure sanctioned by Government on this account has been Rs. 82,514-12-0.

The question is under further consideration.

The Mysore State Life Insurance Bill.

Rajamantrapravina Dewan Bahadur Mr. J. S. Chakravarti.—Sir—With your permission, I beg to move that leave may be granted to introduce the Mysore State Life Insurance Bill.

At present, under the rules of the State Life Insurance scheme the assured bonus becomes payable either on the insured person attaining a particular age or on his death. No difficulty whatever is experienced in making payments promptly in the former class of cases. The transaction is a straight one and the claimant, generally a retired officer, is naturally keen about receiving the bonus amount at once. The difficulty with the Insurance office in these cases is not in making the payment but in making it as quickly as the impatient claimant desires. In the case of death claims, however, the circumstances are quite different. The heirs of the deceased insured person are frequently in great need of money, but under the rules in such cases the bonus can be paid only to the registered nominees or to the legal heirs of the insured, declared as such by a competent court of law. Of course, if all insured persons avail themselves of the rules permitting the registration of nominees, then there would be no difficulty and it would not be necessary to bring forward a Bill like this. For some reason or other we find that a considerable number of persons do not take advantage of the nomination rules. During the last few years the Insurance office has made a regular campaign for securing nominations so that all death claims may be promptly settled. Nomination forms have been printed and distributed to all insured and they have been pressed either to make a nomination or to declare that they have no intention of making a nomination. But some men by nature do not ordinarily like to contemplate the contingency of their own death. In spite of the utmost endeavours of the Insurance office some 30 to 40 per cent of the insured have not registered nominees in respect of their policies. Cases are therefore frequent in which the Insurance office finds itself in a difficult position. An insured person who has not registered a nominee dies and the widow or the orphan child applies to the Insurance office for bonus. In such cases the Insurance office has to tell the applicant that as the deceased policy-holder did not make a nomination, a certificate from a competent

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court of law declaring him or her entitled to the bonus is necessary. I need hardly add that such a reply proves very disappointing to the applicant and involves on that party a great deal of hardship. A certain amount of delay and difficulty is experienced in obtaining the Court's certificate and in the result the heirs of the insured do not get the benefits of the insurance at a time when they are most needed.

The object of the present Bill is to mitigate this difficulty to some extent and to ensure prompt payment in cases where the total amount does not exceed Rs. 1,000.

The Bill for introducing which leave is sought is very brief and its essential sections are only two in number. They are as follows:—

- (1) When the insured dies, the officer whose duty it is to make payment of the bonus and other amounts due along with it may pay them,—
 - (a) to any person nominated by the insured according to the rules framed by Government in this behalf,
 - (b) in default of any such nomination to the person who produces a succession certificate or probate or letters of administration under the law in force claiming to be entitled to receive such sum provided that where the sum payable does not exceed one thousand rupees, payment may be made to such person as the President and the Secretary of the Insurance Committee, after reasonable enquiry find to be entitled to receive it.
- (2) No suit or other legal proceeding shall lie against any person in respect of anything done in pursuance of the provisions of this Regulation.

It will thus be seen that the provisions are very simple. The President and the Secretary of the State Life Insurance Committee are empowered to make bonus payments up to a limit of one thousand rupees in each case after reasonable enquiry.

Members of this Council are aware that in the case of Savings Bank Deposits similar powers are exercised by officers in charge of Savings Banks. It is also proposed to give similar powers to officers in charge of Provident Funds and the Bill for this purpose has already passed several stages in this Council and will come later on in to-day's proceedings for being passed. The object of this Bill, as of the other measures which I have just now referred to, is to afford relief to families on behalf of which provision has been made by prudent and thrifty persons and I have no doubt that the measures will be welcomed by all.

It may be urged that the Bill will involve some loss of Court-fee revenue. The loss, as far as it goes, is real but the Government in this case as in other similar cases are willing to bear this small loss for affording the necessary relief. Moreover, it will be remembered that the Bill applies to cases where the total amount due is less than one thousand rupees. It may also be apprehended by some that the President and the Secretary of the State Life Insurance Committee may not have the same facilities for ascertaining who the real claimant is, as a court of law has. In this connection it is to be observed that payment by the President and Secretary will be only permissive and it may be presumed that they will exercise the power, proposed to be conferred by the Bill, only in cases in which they are satisfied beyond reasonable doubt of the validity of the claim. In doubtful cases it will still be open to them to require the certificate of a court of law before payment is made. Moreover, even on the extreme assumption that an error is made in payment, the real claimant will still have the right to proceed against the party who has wrongly taken payment. For, though the law will protect the *bona fide* actions of the Insurance office authorities, it will of course not protect a wrongful receiver.

Sir, the Bill for introducing which leave is now asked for is simple and I need not detain the Council with any further remarks. If the necessary permission is granted the detailed provisions of the Bill may be thrashed out and settled according to prescribed procedure in ordinary course.

Rajasabhabhusana Dewan Bahadur Mr. K. P. Puttanna Chetty.—Sir,—Both the scope and the utility of the Bill have been explained at great length by the learned mover and it only remains for me to say that this Bill is intended to afford relief to the unfortunate survivors who have lost the bread-winner of the family and who are in sore need of the money which may be left to them by the deceased. To such people it is not only meant to be a great relief but a real boon. The Bill is also a permissive measure. It protects people who are rightful owners of the money. So, there is no objection on the score of possible wrong to other parties.

I therefore beg to second the motion.

The motion was put to vote and passed.

Bill to prevent the spreading of Plant Disease.

Rajasevadhurina Mr. M. Kantaraj Urs.—Sir,—I beg to move that leave be granted to introduce a bill to prevent the spreading of plant disease in the State. The subject of harmful insects and pests has been receiving great attention in the West in recent years. As early as 1877 a statute was introduced in England for preventing the introduction and spreading of an insect known as Colorado Beetle destructive to crops. Under subsequent statutes orders could be made for preventing the introduction into Great Britain of any insect, fungus, or other pest destructive to agricultural or horticultural crops or trees or bushes. Similar enactments have been passed in Canada, United States of America, Australia, South Africa and other countries for the prevention and spread of these vegetable "undesirables." In 1914 a Destructive Insects and Pests Act was also passed in British India. So far as our own State is concerned in the interest of agriculture, it has been frequently represented to Government that in the case of certain infectious plant diseases like Kule-roga, Green-bug, and Kumbli hula pests, the need for some means of enforcing co-operation for remedial measure among the raiyats is very keenly felt. Though some of the raiyats may carry out the recommendations of the experts in the matter, the good results achieved by them are more or less completely nullified by the apathy of others. The representation is not the outcome of a single case of indifference but of innumerable instances. The danger resulting from the spread of these diseases is reported to be very great, and unless some such measure as is now contemplated is introduced, the consequences will, it is feared, be disastrous. Hence a small Bill is proposed to be introduced to prevent the spread of such diseases.

Under the Bill it is proposed to vest in the Government the power to notify any specified area as being infected and the power to frame rules for the inspection, disinfection and destruction of diseased articles, and for regulating the powers and duties of the officers employed on this duty and generally for the carrying out of the objects of the Bill; and a breach of the rule or order is made punishable only with a fine. The details of the Bill may be considered by the Select Committee. I request that as there is a great and urgent necessity for this measure leave to introduce it may kindly be granted.

Mr. C. S. Balasundaram Iyer.—Sir,—I beg to second the motion. The Member in charge of the Bill has explained at great length the scope of the measure and the details of the Bill will be considered in the Select Committee. So far as the principle of the Bill is concerned, I think it is necessary to have such a measure calculated to prevent the spreading of plant disease by means of insect and other pests. We know that the spread of lantana is ravaging the whole country and steps should be taken to prevent such a state of things.

Rajasevadhurina Mr. M. Kantaraj Urs.—Sir,—I beg to correct a mistake made by the last speaker. This measure does not concern lantana and other noxious weeds. It only refers to the prevention of the spread of plant disease.

Rajasabhabhusana Dewan Bahadur Mr. K. P. Puttanna Chetty.—Sir,—The ravages of the green bug are on the increase in Bangalore and unless timely

action is taken, I am afraid it would be very hard to eradicate the pest in course of time. I had some cases in my own compound and I had to call for the aid of the Government Botanist. I know that in the Tigalers gardens the green bug is in great abundance and destroys the results of their whole year's labour. The Bill is necessary not only to prevent the pests we already have from spreading but also to prevent the importation of such pests from abroad, now that we are getting plants from Australia and other countries.

I have therefore great pleasure in supporting the motion.

The motion was put to vote and passed.

•Bill to amend the Mysore Land Acquisition Regulation, 1894.

Rajasevadhurina Mr. M. Kantaraj Urs.—SIR,—The next motion is only a formal one. I beg leave to move that the Bill to amend the Mysore Land Acquisition Regulation, 1894, which has already passed through several stages in this Council, be passed.

Mr. C. S. Dorasami Iyer.—SIR,—As the Council is aware, the Bill is intended only to obviate the necessity for notification by name of the Assistant Commissioner in charge of Sub-Division in acquisition proceedings, where small lands of trivial value have to be dealt with. I therefore beg to second the motion.

The motion was put to vote and passed.

Bill further to amend the Mysore Land Revenue Code, 1888.

Mr. A. R. Banerji.—SIR,—The next motion is that the Bill further to amend the Mysore Land Revenue Code, 1888, be passed. The members of this Council may remember, when last time it came up, the report of the Select Committee was presented and I had the honour of explaining the slight modifications which they had made. The Bill has now gone through all the different stages and no lengthy remarks are called for at this stage.

I therefore beg to move that the Bill further to amend the Mysore Land Revenue Code, 1888, be passed.

Mr. C. S. Balasundaram Iyer.—SIR,—I beg to second the motion.

The motion was put to vote and passed.

The Bill to amend the Mysore Tramways Regulation, 1906.

Rajasevadhurina Mr. M. Kantaraj Urs.—SIR,—I beg to move that the Report of the Select Committee on the Bill to amend the Mysore Tramways Regulation together with the Bill as amended by them be considered in Council. The scope and purport of the Bill have already been explained to the Council and I do not propose to cover the same ground again. The Bill has been carefully considered by the Select Committee, and as the original clause was not found to be sufficiently comprehensive or precise, the Select Committee have re-drafted the clause, and their Report with the amended clause is already in your hands and I need not say much on the point. But I wish, however, to invite your attention to only one point. The British Indian Act of 1886, on which our existing Regulation is based was passed before the introduction of electric traction into India, and the provisions of that Act have been construed as not sufficiently comprehensive to cover cases of electric traction when applied to tramways. Hence the British Indian Act was amended in 1911 by Act V of 1911. As the tramways proposed to be constructed by our Government are intended to be worked by electric power, necessary changes have been made in re-drafting the clause with a view to its applicability to tramways worked by electric power also.

Rajasabhabhushana Dewan Bahadur Mr. K. P. Puttanna Chetty.—SIR,—The Bill was gone into very carefully at the Select Committee and they thought it necessary to re-draft it on the lines now indicated. All the rules that the Government wish to impose upon a private company under the Tramway Regulation cannot be made applicable when the tramway is worked by Government. The Select Committee therefore recommend that certain sections only of the Regulation may be made applicable when the Government themselves undertake to work the tramway. It is necessary that some distinction should be maintained when the work is taken up by Government. The omission as regards the working by electricity has been supplied in the draft now revised. I beg to second the motion.

Mr. C. S. Dorasami Iyer.—SIR,—I am also in favour of the motion. But I have some doubt regarding one point. In sub-clause (c) of the new section 47A(1), a penalty of Rs. 500 is prescribed while in the Regulation itself, *vide* section 25 a maximum penalty of Rs. 200 is prescribed. I would like to know whether this higher penalty is deliberately proposed to be fixed in the case where the Government themselves take over the management. If not a maximum penalty of Rs. 200, which will be in consonance with the other penal section of the Regulation, may be prescribed for infringement of rules framed under section 47A.

Mr. K. P. Puttanna Chetty.—SIR,—The section referred to is taken bodily from the Municipal Regulation. The penalty should be Rs. 200 and not Rs. 500. It is not intended that the Government Agency should be punished more severely than private bodies for infraction of rules.

The amendment was accepted by the mover.

Mr. M. Basava Iya.—SIR,—I suggest another verbal amendment, *viz.*, the omission of the words "power" and "by" in the 3rd line of sub-section (a) of section 47A.

This was also accepted by the mover.

The motion was then put to vote and passed.

Rajasevadhurina Mr. M. Kantaraj Urs.—SIR,—I now beg to move that the Bill as amended be passed.

Rajasabhabhushana Dewan Bahadur Mr. K. P. Puttanna Chetty.—SIR,—I beg to second the motion.

The motion was put to vote and passed.

The Bill to amend the law relating to Government and other Provident Funds.

Mr. A. R. Banerji.—SIR,—I beg to move that the report of the Select Committee on the Bill to amend the law relating to Government and other Provident Funds together with the Bill as amended by them be considered in Council. This Bill was referred to the Select Committee of this Council last April. The Select Committee have gone through the provisions of the Bill with considerable care and made just one or two alterations. In the report that is before us, there is a small printing error. In the 3rd paragraph of the report, for "sub-clause (c) of clause 3" please read "sub-clause (a) of clause 3". Sub-clause (a) reads as follows:—

"to any person entitled to receive it according to the rules of the fund or in the absence of any rule of the fund to the contrary, to any person nominated in writing by the deceased subscriber....."

The Select Committee have omitted the word "deceased" and added "and registered in the office of the fund during his lifetime."

I think the members will all agree that it is a very desirable precaution to insist that the name of the nominee should be registered in the office. The other alterations do not require any explanation from me. "A District Fund or a Municipal Fund" is altered to "under a local authority"; and "Muzrai institution"

has been specified in greater detail by adding the words "as defined in the Mysore Regulation, VJ of 1913."

I therefore beg to move that the Bill as amended by the Select Committee be considered now in Council.

Rajamantraprasanna Dewan Bahadur Mr. J. S. Chakravarti.—I beg to second the motion.

Mr. H. Narasinga Rao.—SIR,—I beg to move that in clause 3 of the Bill the word "or" occurring after the words "anything done" and also the words "intended to be done" be omitted.

Clause 5 reads as follows:—"No suit or other legal proceeding shall lie against any person in respect of anything done or in good faith intended to be done in pursuance of the provisions of this Regulation."

"Under this clause, "good faith" is required for "anything intended to be done" but anything actually done does not require good faith. I submit that what is intended to be done is not actionable. Something more than mere intention is necessary to constitute an act actionable. I therefore propose that the words "intended to be done" may be omitted and "anything done in good faith" may remain. If the amendment is accepted, the clause would read as follows:—"No suit or other legal proceeding shall lie against any person in respect of anything done in good faith in pursuance of the provisions of this Regulation."

Suppose, A is really entitled to receive the money but the officer gives it to B. So that, what is actually done must be done in good faith in pursuance of the Regulation. It is only then that immunity can be granted.

Mr. B. Narasinga Rao.—SIR,—I beg to second the motion, but wish to suggest another amendment along with it. The word "good faith" seems to me to have been misplaced there, for, it would certainly be all right if the section is read as follows.—

"No suit or legal proceeding shall lie against any person in respect of anything done or intended to be done in good faith in pursuance of the provisions of this Regulation."

Mr. H. Narasinga Rao.—SIR, I accept the amendment. There is no harm in retaining the expression "intended to be done."

Mr. S. Sentharamaiah. SIR,—I think the expression "intended to be done" seems unnecessary as Mr. H. Narasinga Rao originally said. Anything intended to be done in pursuance of the provisions of this Regulation, is not actionable at all. No wrong will be done to anybody by the intention. The vague intention will not harm anybody and it cannot give any cause of action to anybody. Hence "intended to be done" is unnecessary. The amendment as originally proposed by Mr. H. Narasinga Rao appears to me to be all right. The reason that there is no harm in retaining it is no reason at all when it is considered that in a legislation every word must have some effect. Without any object and without any effect, there is no meaning in leaving that expression there.

Mr. C. S. Doraswamy Iyer. SIR,—I do not see any words in section 5 of the Bill which require to be expunged.

Two objections are raised:

- (1) that the words "good faith" are misplaced and they ought to come before the word "done" in line 2. If this is accepted by the learned mover, I have nothing to say. If not, it seems to me that the present position of the said words is the proper one.

- (2) the words "intended to be done" are unnecessary.

As I understand that it is open to me to speak against the first objection, I beg to point out that where an act is done in pursuance of the Regulation, that is to say in conformity with the authority given by the Regulation itself, the question of good faith does not arise. If, on the other hand, any act is done contrary to

the provisions of the law, the act is illegal and the question of good faith need not be taken into account. For instance, under clause (b) of section 3, an officer authorised to make the payment of a sum which does not exceed one thousand rupees may do so after making an inquiry which, in his opinion, is reasonable. Supposing that he makes no inquiry at all or that the inquiry that he makes is so defective that it cannot be deemed to be an inquiry at all or that the inquiry made can by no means be stated to be reasonable, then there is a contravention of the express provision of law and what is done is therefore not done in pursuance of the provisions of that Regulation. If the act done is, in accordance with law, his act is certainly not actionable and therefore needs no special statutory protection. But if, on the other hand, he does an act believing in good faith that he is acting in pursuance of the Regulation protection is required if it turns out that some detail has been omitted. In such a case "good faith" is required to protect him because he purposes to act with the honest, though perhaps mistaken intention and belief of conforming to the authority given by the Regulation. Compare "The Judicial Officers Protection Regulation" where a judge or magistrate acting judicially is similarly protected if he in good faith believed that he had jurisdiction so to act and act. If in good faith he believes that he has jurisdiction, when in fact he has not, the Regulation gives him protection. No "good faith" is required for the act done, or ordered to be done, but "good faith" is necessary for believing whether he has jurisdiction or not to act in the matter. It is perhaps in view of such a distinction that the language in section 5 of the corresponding enactment in British India was changed by the Select Committee to what it is, in lieu of what it was. I, therefore, oppose the amendment and I submit that I do not see any necessity to expunge the words "intended to be done" or to transpose the words "good faith" in the manner suggested.

Mr. A. R. Banerji.—SIR,—After the explanation that Mr. Dorasami Iyer the Government Advocate has furnished, I just wish to point out that by proposing the insertion of the expression "in good faith" in the place after "intended to be done," I did not think that the member was suggesting any real material amendment. As now explained we see that if anything is done in pursuance of the Regulation, then the question of good or bad faith does not arise. Perhaps, if I refer to the Government of India Act and the corresponding section now under discussion, it will enlighten us to some extent. The Government of India Act, section 5 as originally drafted before the Select Committee altered it read thus:—"No suit or legal proceeding shall lie against any person in respect of anything in good faith done or intended to be done." The Select Committee altered it as it stands now. In the present Bill that is the phraseology adopted and I do not think that there is any real change involved in accepting the amendment of Mr. B. Narasinga Rao. If the clause is amended thus "if anything done, or intended to be done in good faith," I have no objection to accept the amendment.

Mr. S. Seetharamaiya.—SIR,—The learned Member suggested that if anything is done in pursuance of the Regulation, it must be presumed to have been done in good faith. I think the act may be done in pursuance of the Regulation; still there may be some defect or some mistake which may be *bona fide* or *mala fide*. There is the provision for enquiry but the enquiry may have been held in a mistaken manner. For instance a police officer arrests a man without a warrant. He has got authority to do it, when any information is received by him. Strictly speaking he is well within his powers. Still after further investigation it may be found that he acted maliciously. Hence the mere fact that a certain thing is done under the law does not mean necessarily that the act is done *bona fide*. It may be *mala fide*. So the word *bona fide* is necessary even for an act done. With reference to "intended to be done" I think the Government Advocate said that there may be a case where an order is passed about payment. It is yet an act done and before that act is actually carried out it must still be considered to be done *bona fide*. I submit that the act done is different from mere passing of an order. The latter is simply an intermediate step in the completed act. Supposing an order for making the payment is passed, that does not give rise to any legal action either by way of suit or proceeding. The man will have no cause of action. So the expression "intended to be done" seems to be quite unnecessary. The more I think of it, the more do I feel convinced that that phrase is unnecessary.

Mr. C. Narasimhalya.—SIR,—The word "in good faith" would apply only to the act done. I would therefore suggest the following alteration. The phrase "intended to be done" may go first and "act done in good faith" afterwards without any comma.

Mr. H. Narasinga Rao.—SIR,—When an order is passed and an enquiry is made, it is something done under the Regulation. It does not cover what is intended to be done. So that "intended to be done" serves no purpose whatsoever. "If good faith" is not inserted after "anything done," there will be no room to find out whether what is done is done in good faith or bad faith. It would be a most dangerous instrument in the hands of officers dealing with thousands of rupees belonging to poor people. There ought to be a safeguard to every depositor and there ought to be a warning to every officer concerned against abuse of power. I therefore submit that "good faith" is absolutely necessary for "anything done." There is no occasion for the words "intended to be done."

Mr. A. R. Banerji.—The differentiation between the thing done and intended to be done is with reference to the actual payment under that clause.

Mr. H. Narasinga Rao.—No, not necessarily so. In respect of everything done under the provisions of the Regulation, if it is done in bad faith, his act is actionable. The depositors must have confidence that their money is safe, and the officers concerned must know that for anything done in bad faith they are held answerable. What is intended to be done unless it is actually done cannot be the subject of an action. That is why "intended to be done" is unnecessary.

Mr. A. R. Banerji.—Supposing the officer asks the party to produce a certificate with the object of making the payment. Will he not be protected under this provision?

Mr. H. Narasinga Rao.—Under the Regulation there are so many things to be done. Every step that the officer takes—if he takes it in good faith he is protected; else his act is actionable.

Rajamantrapravina Dewan Bahadur J. S. Chakravarti.—SIR,—The clause under discussion is a protective clause. It is a clause which is intended to empower the Provident Fund authorities to make certain payments after due enquiry and to protect those making such payments in pursuance of the Regulation from any liability in the matter. This means that in respect of these transactions the Provident Fund authorities will be allowed to act according to their light without any interference from courts of law. That is the object. When the payment has been actually made in pursuance of the Regulation the object is fulfilled, and no interference should be possible. And if anything is "in good faith intended to be done" there should be no interference in that also. The intention of the clause is that all arrangements to make payment, if made in good faith, should be allowed to proceed without interference. Therefore the clause as it stands is all right. The Provident Fund authorities should not be troubled for acts done in pursuance of the Regulations. And when they are still arranging to make a payment intending to do it, if it is in good faith that they intend to make the payment, then also they must be allowed to proceed without interference. Whatever is done in pursuance of the Regulation should be protected; and, "anything intended to be done" should also be protected from interference if the intention is to act in good faith. In this view, the wording as it stands is all right and does not require any change or transposition of words.

Mr. B. Venkataswamanna.—SIR,—The Financial Secretary said that so far as immunity is concerned, no good faith is necessary when the act is done because provision of law has been duly observed. But as an additional guarantee I would say that good faith is necessary even when the officer is acting in conformity with the provisions of law. Let me take an extreme case. Suppose A, an officer, is dealing with B, a pauper. All formalities are observed and an order is made to pay the amount to him and it is paid. According to the Financial Secretary's statement, no action lies against the officer who made the payment although he may have acted *malu fide*. In such cases, the officer should be clearly liable because he acted *malu*

fidem. I therefore think that my friend Mr. H. Narasinga Rao and others are right in insisting that good faith is necessary even in cases of acts done in conformity with the provisions of law. But the learned Government Advocate said that good faith is necessary only when the act is intended to be done and not in cases of acts done. Here intention is not either criminally or civilly liable. We cannot punish intention; or we cannot hold the man intending liable. The real cause of action arises only when the payment is made. Any thing short of payment would be of no use. Others are only preliminary steps. Hence the amendment proposed by my friend may be adopted.

Mr. C. S. Doraswamy Iyer.—SIR,—As an abstract proposition of law, any legal friends are quite right in saying that undisclosed intention which is only in the mind of the person intending is not either punishable or actionable. But, if his intention is made manifest by words spoken or by acts done which the law will recognise as the expression of his intention, then I do not think that such overt acts will not be actionable in law. What section 5 is intended to convey is that for an act done, if intended *bona fide* to be done in pursuance of the Regulation, protection must be afforded. Protection is given not for *bona fide* unexpressed intentions but for acts intended in good faith to have been done.

Under section 3, clause (a), payment shall have to be made to the person entitled to receive it according to the rules of the Fund, and secondly, in the absence of a rule to the contrary, to the registered nominee of the deceased; in default, to the person that produces a certificate from a competent court empowering him to receive it. It is only in a case which is not disposed of in the above manner, that the officer authorised to make payments, sits as a judicial officer makes a reasonable inquiry and directs payment, provided it does not exceed one thousand rupees, to the person who, as the result of such inquiry is in his opinion entitled to receive it. His act being a judicial act, he requires protection in the same manner in which judicial officers in similar circumstances will be protected. If the officer does a thing which is contrary to law, then as I stated already he is not protected for obvious reasons. If he takes precaution in a reasonable manner, to conform to the provisions of law, then his acts, if *bona fide* intended to be done under the Regulation will, I need not repeat, be protected. Mr. Narasinga Rao, as I understood him, said that there could possibly be no acts which might be intended to be done and are not actually done. In his view, therefore, the words "intended to be done" in section 5 are mere surplusage and are out of place in the statute. He is also of opinion that, there could possibly be no action taken against the officer, in such circumstances. I beg to submit as an example that if, between the date of the order directing payment and of the actual payment, we consider that there is an act done and an intention expressed to do another act later on, is there not an opportunity afforded, for the paying officer if he is not statutorily protected, being proceeded against by means of an injunction in the interval. I need hardly add that the Regulation will not stand in the way of the rightful claimant establishing his right against the wrongful payee and recovering the amount paid to him. I do not think therefore that any fresh light has been thrown as to why we should depart from the phraseology adopted by the Select Committee to whom the Government of India Bill was referred.

Mr. M. Basava Iya.—SIR,—Both the classes of cases namely, where an act is done, that is, payment is made and where it has not gone so far but still is in the intention where the officer orders that payment may be made, but the payment is not actually made—such classes of cases may be considered in the light of the present clause. If only a comma is placed after "in respect of anything done or in good faith intended to be done," the differentiation will be clear.

Mr. A. R. Banerji.—SIR,—We have had a learned discussion on the actual phraseology to be adopted in clause 5. Perhaps I may add another remark to show that there is a deliberate intention in adhering to this phraseology in this Bill. So far as protecting clauses are concerned, we see in some other Acts that protection has been given to Government Officers of Departments such as Excise, when they do certain things in pursuance of the powers vested in them by the Legislature and

Bill to amend the Mysore Muzrai Regulation, 1913.

Rajaseradharina Mr. M. Kantaraj Urs.—SIR,—I beg to move that my name be substituted for that of Mr. K. S. Chandrasekhara Aiyar, B.A., B.L., in the Select Committee appointed to consider the Bill to amend the Mysore Muzrai Regulation, 1913.

Rajasubhabhushana Dewan Bahadur Mr. C. Srikanteswara Aiyar.—SIR,—I beg to second the motion.

The motion was put to vote and passed.

The meeting then adjourned *sine die*.

By Order,

G. SREENIVASA IYER,

Secretary, Mysore Legislative Council.